

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

PHILLIP ZAWACKI &  
MEREDITH ZAWACKI,

Plaintiffs,

vs.

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDING LADDER CO.,  
a Corporation; TRAVELERS  
INSURANCE GROUP, INC. f/d/b/a  
AETNA INSURANCE AGENCY, INC.,  
a Corporation,

Defendants.

No.: FILED: MAY 13, 2008

08 cv 2774 JH

JUDGE ZAGEL

MAGISTRATE JUDGE NOLAN

**NOTICE OF REMOVAL**

TO: Clerk of the Court  
United States District Court  
Northern District of Illinois  
Eastern Division  
219 S. Dearborn Street  
Chicago, Illinois 60604

Clerk of the Court  
Circuit Court of Cook County  
County Department – Law Division  
Richard J. Daley Center, 50 W. Washington Street  
Chicago, Illinois 60602

Miroballi, Durkin & Rudin, LLC  
Attorney for Plaintiffs  
6 West Hubbard Street, Suite 300  
Chicago, Illinois 60610

Defendant REL-STAPLETON CORPORATION, INC. f/k/a Stapleton Corporation hereby provides its Notice of Removal pursuant to 28 U.S.C.A. § 1441. The grounds for removal are as follows:

1. This court has original jurisdiction pursuant to the provisions of 28 U.S.C.A. § 1332 and is one which may be removed to this Court by the petitioner pursuant to the provisions

of 28 U.S.C.A. § 1441 and § 1446 because the matter in controversy exceeds the sum of \$75,000 exclusive of costs and interests, and complete diversity exists.

2. **DIVERSITY OF CITIZENSHIP**

a. There is complete diversity of citizenship of the parties pursuant to 28 U.S.C.A. § 1332.

b. At the time plaintiffs filed their state court action and at the time of filing of this notice of removal, the plaintiffs, Phillip Zawacki and Meredith Zawacki, were and are citizens of the State of Illinois.

c. At the time plaintiffs filed their state court action and at the time of filing of this notice of removal, Defendant REL-Stapleton Corporation, Inc. was and is incorporated in Arkansas and has its principal place of business in Van Buren, Arkansas.

d. At the time plaintiffs filed their state court action and at the time of filing of this notice of removal, Defendant ING Insurance Services, Inc., according to the Illinois Secretary of State, is a Connecticut corporation, with its principal place of business in Minneapolis, Minnesota.

e. At the time plaintiffs filed their state court action and at the time of filing of this notice of removal, and based on a telephonic conversation with its claims department, Travelers Insurance Group, Inc. is a Minnesota corporation and has its principal place of business in Minneapolis, Minnesota. Travelers Insurance Group, Inc., according to the Illinois Secretary of State's Office, was and is not an Illinois corporation.

3. **CONSENT**

a. Plaintiffs' amended complaint substitutes Defendant Travelers Insurance Group, Inc. in place of Defendant ING Insurance Services, Inc.

b. At the time of filing of this Notice of Removal, Defendant Travelers Insurance Group, Inc. has not been served with a summons or complaint.

c. At the time of filing of this Notice of Removal, Defendant Travelers Insurance Group, Inc. and ING Insurance Services, Inc. have not appeared in the state court action.

d. Counsel for defendant REL-Stapleton Corporation, Inc. has attempted to contact ING Insurance Services, Inc. to obtain consent to removal but received no response from its legal department. Travelers Insurance Group, Inc. has not been served in the state court action at the time of filing this removal, and therefore, its consent to removal is not required.

4. **AMOUNT IN CONTROVERSY**

The amount in controversy also exceeds \$75,000 exclusive of costs and interests. (See affidavit of Joseph P. Switzer, attached hereto and made a part hereof as Exhibit "A"). In their First Amended Complaint, the plaintiffs alleged that:

[T]he Plaintiff climbed and was standing on the aforesaid Stapleton folding ladder when the ladder collapsed, causing the Plaintiff, PHILLIP ZAWACKI, to fall a distance of at least two (2) stories, thereby sustaining serious and permanent injuries to his person. The plaintiff was, and will be, hindered and prevented from attending to his usual duties and affairs of life, and has lost, and will lose, the value of the time as aforementioned. Further, the Plaintiff suffered great pain and anguish, both in mind and body, and will in the future, continue to suffer. The Plaintiff further expended and became liable for, and will expend and become liable for large sums of money for medical care and services endeavoring to become healed and cured of said injuries.

The Plaintiff, Meredith Zawacki, has also alleged a loss of consortium claim.

5. **TIMELINESS**

a. Defendant REL-Stapleton Corporation, Inc. has filed this Notice of Removal within (30) days of service of the lawsuit.

b. The plaintiffs filed their Complaint at Law in the Circuit Court of Cook County, Chicago, Illinois, Law Division on March 31, 2008. (See Plaintiffs' Complaint at Law attached as Exhibit "B").

c. Defendant REL-Stapleton Corporation, Inc. was served on April 14, 2008. (See summons attached as Exhibit "C").

d. On April 17, 2008, defendant ING Insurance Services, Inc. was served with a summons and plaintiffs' complaint. (See summons attached as Exhibit "D").

e. On May 1, 2008, the plaintiffs amended the complaint to substitute defendant Travelers Insurance Group, Inc. in place of defendant ING Insurance Services, Inc. (See Plaintiffs' First Amended Complaint at Law attached as Exhibit "E").

f. This notice of removal was filed within 30 days of service.

g. No other defendant has appeared, and efforts to reach said parties have, to date, been unsuccessful.

e. No defendant has objected to this removal at this time.

6. **STATE COURT FILE ATTACHED**

Pursuant to 28 U.S.C. § 1446(a), plaintiffs summons, Complaint at Law and First Amended Complaint at Law, as well as the entire contents of the state court file are attached to this Notice of Removal and are the sole pleadings in the aforementioned case, thus constituting the entire court file, copy of all process, pleadings and orders served upon the defendant. (See Affidavit of Donald Duvall, attached hereto and made a part hereof as Exhibit "F").

7. **WRITTEN NOTICE OF FILING**

The defendant has given written notice of the filing of this Notice of Removal to all attorneys of record and the Clerk of the Cook County Circuit Court – Law Division, Chicago, Illinois.

WHEREFORE, the defendant REL-Stapleton Corporation, Inc. seeks to remove this action based on the reasons set forth above.

Respectfully submitted,

By: s/Louis J. Phillips  
One of the attorneys for the defendant  
REL-Stapleton Corporation, Inc.

Joseph P. Switzer – ARDC#3127727  
Louis J. Phillips – ARDC#6279354  
Swanson, Martin & Bell, LLP  
330 N. Wabash, Ste. 3300  
Chicago, Illinois 60611  
(312) 321-9100  
(312) 321-0990 FAX  
[jswitzer@smbtrials.com](mailto:jswitzer@smbtrials.com)  
[lphillip@smbtrials.com](mailto:lphillip@smbtrials.com)

**CERTIFICATE OF SERVICE**

I, the undersigned non-attorney, certify that I served the foregoing **Notice of Removal** upon the clerks and counsel of record listed below, via regular U.S. Mail, proper postage prepaid, from the offices of Swanson, Martin & Bell, LLP, 330 N. Wabash, Ste. 3300, Chicago, Illinois 60611 on May 13, 2008 before 4:00 p.m.

TO: Clerk of the Court  
United States District Court  
Northern District of Illinois  
Eastern Division  
219 S. Dearborn Street  
Chicago, Illinois 60604

Clerk of the Court  
Circuit Court of Cook County  
County Department – Law Division  
Richard J. Daley Center, 50 W. Washington Street  
Chicago, Illinois 60602

Miroballi, Durkin & Rudin, LLC  
Attorney for Plaintiffs  
6 West Hubbard Street, Suite 300  
Chicago, Illinois 60610

A handwritten signature in cursive script, reading "Pamela Canington", is written over a horizontal line.

☒ Under penalties of perjury, I certify that the statements set forth herein are true and correct.

08 cv 2774

JUDGE ZAGEL

MAGISTRATE JUDGE NOLAN

# **EXHIBIT**

# **A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

PHILLIP ZAWACKI &  
MEREDITH ZAWACKI,

Plaintiffs,

vs.

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDING LADDER CO.,  
a Corporation; TRAVELERS  
INSURANCE GROUP, INC. f/d/b/a  
AETNA INSURANCE AGENCY, INC.,  
a Corporation,

Defendants.

No.:

**AFFIDAVIT OF ATTORNEY JOSEPH P. SWITZER**

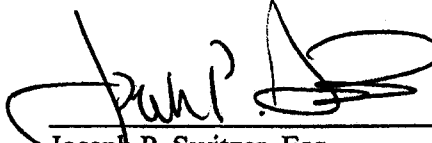
I, Joseph P. Switzer, after being sworn and upon oath, state that if I were called to an evidentiary hearing I would competently testify on the basis of first hand knowledge to the following:

1. I am an attorney for REL-Stapleton Corporation, Inc. f/k/a Stapleton Corporation in the *Zawacki* litigation.
2. I am knowledgeable about the citizenship and principal place of business of REL-Stapleton Corporation, Inc. at the time plaintiffs filed their state court action and at the time of filing the notice of removal as being an Arkansas corporation with its principal place of business in Van Buren, Arkansas.
3. In the time I have worked as an attorney in Illinois, I have been involved with numerous negligence and product liability suits involving ladders such as this one.
4. As a trial attorney for the above defendant REL-Stapleton Corporation, Inc., I have a good faith belief, based on the plaintiffs' allegations set forth in their complaint and my



experience in handling numerous negligence and product liability actions involving ladders, that the parties are in diversity and that the amount in controversy exceeds the jurisdictional amount of \$75,000 exclusive of costs and interest and that removal is proper.

FURTHER AFFIANT SAYETH NOT

  
\_\_\_\_\_  
Joseph P. Switzer, Esq.

Subscribed and sworn to  
Before me this 12<sup>th</sup> day  
of May, 2008

  
\_\_\_\_\_  
Notary Public



# **EXHIBIT**

## **B**

FIRM NO.: 41994  
JIM/LAL - 181-3

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

PHILLIP ZAWACKI &  
MEREDITH ZAWACKI,

Plaintiffs,

v.

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDING LADDER CO.,  
a Corporation; ING INSURANCE  
SERVICES, INC. f/d/b/a AETNA  
INSURANCE AGENCY, INC.,  
a Corporation,

Defendants.

Court No.: 08L3483

7881-1131 11-10-03

COMPLAINT AT LAW

NOW COMES the Plaintiff, PHILLIP ZAWACKI, by and through his attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., a Corporation, states as follows:

COUNT I

(Negligence against STAPLETON CORPORATION)

1. That up until the year 1989, and for a long time prior thereto, the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO. (hereinafter "STAPLETON"), was a corporation engaged in the business of designing, manufacturing, and selling wood folding ladders.

2. That some time during or prior to the year 1989, the Defendant, STAPLETON, designed, manufactured and placed in the stream of commerce a certain wood folding ladder that

was purchased from said Defendant by ING INSURANCE SERVICES, INC. f/d/b/a AETNA INSURANCE AGENCY, INC., to be used by its agents, servants, and/or employees, in the City of Chicago, County of Cook, State of Illinois.

3. That during or about the year 1979, and for a period of eight (8) years thereafter, the Plaintiff, PHILLIP ZAWACKI, was employed by ING INSURANCE SERVICES, INC. f/d/b/a AETNA INSURANCE AGENCY, INC. as an insurance adjuster, and during the course of his employment, the Plaintiff was provided and came into contact with the aforementioned wood folding ladder that was designed, manufactured and sold by the Defendant, STAPLETON.

4. That at all relevant times, the Defendant, STAPLETON, owed a duty to exercise reasonable care in the design, manufacturing, inspection, testing and sale of its folding wood ladders, and in the warnings and instructions given concerning their use, so that said folding wood ladders were not unreasonably dangerous when put to use.

5. That notwithstanding its duty, at the time the Defendant, STAPLETON, designed, manufactured and sold the folding wood ladder, the Defendant was careless and negligent in one or more of the following respects:

- (a) Failed to properly design the folding wood ladder;
- (b) Failed to design the folding wood ladder in accordance with the applicable codes, regulations, and specifications governing such ladders;
- (c) Improperly designed the feet of the ladder in such a way that its user, such as the Plaintiff, is able and likely to climb on the side of the ladder that is not intended to be load-bearing, thereby creating the risk of structural collapse;
- (d) Failed to manufacture the folding wood ladder in accordance with the applicable codes, regulations, and specifications governing such ladders;

- (e) Failed to properly manufacture the folding wood ladder in such a way that would prevent a user from setting up the ladder to climb on the side of the ladder that is not intended to be load-bearing, thereby creating the risk of structural collapse;
- (f) Failed to place adequate warnings on the Stapleton wood folding ladders that users, such as the Plaintiff, can only safely climb on one side of the ladder, as only one side of the ladder was constructed and/or is intended to be load-bearing to avoid the risk of structural collapse;
- (g) Failed to make a reasonable inspection of the Stapleton wood folding ladder when the Defendant knew, or in the exercise of ordinary care should have known, that said inspection was necessary to prevent injury to its users, such as the Plaintiff;
- (h) Failed to discover the defective and/or unsafe condition of the Stapleton wood folding ladders; and/or
- (i) Failed to warn of the defective and/or unsafe condition of the Stapleton wood folding ladders.

6. That on November 17, 2007, as a direct and proximate result of one or more of the careless and negligent acts and/or omissions and unreasonably dangerous conditions of the Stapleton wood folding ladder, the Plaintiff climbed and was standing on the aforesaid Stapleton folding ladder when the ladder collapsed, causing the Plaintiff, PHILLIP ZAWACKI, to fall a distance of at least two (2) stories, thereby sustaining serious and permanent injuries to his person. The Plaintiff was, and will be, hindered and prevented from attending to his usual duties and affairs of life, and has lost, and will lose, the value of the time as aforementioned. Further, the Plaintiff suffered great pain and anguish, both in mind and body, and will in the future, continue to suffer. The Plaintiff further expended and became liable for, and will expend and become liable for large sums of money for medical care and services endeavoring to become healed and cured of said injuries.

WHEREFORE the Plaintiff, PHILLIP ZAWACKI, demands judgment against the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

**COUNT II**

**(Loss of Consortium against STAPLETON CORPORATION)**

NOW COMES the Plaintiff, MEREDITH ZAWACKI, by and through her attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., a Corporation, states as follows:

1. – 6. That the Plaintiff adopts and realleges Paragraphs 1 through 7, inclusive, of COUNT I as Paragraphs 1 through 7, inclusive, of this COUNT II, as if fully restated herein.

7. That on and for a long time prior to November 17, 2007, up until the present time, the Plaintiff, MEREDITH ZAWACKI was and is now the wife of the Plaintiff, PHILLIP ZAWACKI.

8. That the Plaintiff, MEREDITH ZAWACKI, suffered and continues to suffer the loss of consortium of her husband, the Plaintiff, PHILLIP ZAWACKI, as a result of the injuries sustained by the Plaintiff, PHILLIP ZAWACKI, on November 17, 2007.

WHEREFORE the Plaintiff, MEREDITH ZAWACKI, demands judgment against the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

**COUNT III**  
**(Negligence against AETNA)**

NOW COMES the Plaintiff, PHILLIP ZAWACKI, by and through his attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, ING INSURANCE SERVICES, INC. f/d/b/a AETNA INSURANCE AGENCY, INC., a Corporation, states as follows:

1. That on November 17, 2007, and for a long time prior thereto, the Defendant, ING INSURANCE SERVICES, INC. f/d/b/a AETNA INSURANCE AGENCY, INC. (hereinafter "AETNA"), was and currently is a corporation engaged in the insurance business, in the City of Chicago, County of Cook, State of Illinois.

2. That during or about the year 1979, and for a period of eight (8) years thereafter, the Plaintiff, PHILLIP ZAWACKI, was employed by the Defendant, AETNA, as an insurance adjuster.

3. That during the aforementioned period of the Plaintiff's employment, the Defendant, AETNA, distributed to the Plaintiff a Stapleton folding wood ladder.

4. That at all relevant times, the Defendant did not condition the Plaintiff's use of the aforementioned Stapleton folding wood ladder on the Plaintiff's employment, nor was the Plaintiff instructed only to use said Stapleton folding wood ladder during the course of his employment.

5. That at all relevant times, the Defendant, AETNA, owed a duty to exercise reasonable care in the inspection, maintenance, and distribution of the aforementioned Stapleton

folding wood ladder, so that said ladder was not unreasonably dangerous when used by employees or former employees of the Defendant, AETNA, such as the Plaintiff.

6. That notwithstanding its duty, the Defendant, AETNA, by and through its agents, servants, and employees, was then and there guilty of one or more of the following negligent and careless acts and/or omissions:

- (a) Failed to make a reasonable inspection of the Stapleton wood folding ladder when the Defendant knew, or in the exercise of ordinary care should have known, that said inspection was necessary to prevent injury to its users, such as the Plaintiff;
- (b) Improperly maintained the Stapleton wood folding ladder prior to distributing said ladders to its employees, despite the Defendant's duty to keep said Stapleton wood folding ladder in a safe condition;
- (c) Failed to properly maintain, repair, and/or modify the Stapleton wood folding ladder, so that said Stapleton wood folding ladder was in compliance with the applicable codes, regulations, and specifications governing such ladders;
- (d) Improperly distributed the Stapleton wood folding ladder to its employees, despite the fact that said Stapleton wood folding ladder was not in compliance with the applicable codes, regulations, and specifications governing such ladders;
- (e) Failed to place adequate warnings on the Stapleton wood folding ladders that users, such as the Plaintiff, can only safely climb on one side of the ladder, as only one side of the ladder was constructed and/or is intended to be load-bearing to avoid the risk of structural collapse;
- (f) Failed to adequately instruct its employees on the proper use of the Stapleton wood folding ladders prior to distributing said ladders to its employees;
- (g) Failed to discover the defective and/or unsafe condition of the Stapleton wood folding ladders; and/or
- (h) Failed to warn of the defective and/or unsafe condition of the Stapleton wood folding ladders.



7. That on November 17, 2007, as a direct and proximate result of one or more of the careless and negligent acts and/or omissions and unreasonably dangerous conditions of the Stapleton wood folding ladder, which was distributed by the Defendant, AETNA, to the Plaintiff, the Plaintiff climbed and was standing on the aforesaid Stapleton folding ladder when the ladder collapsed, causing the Plaintiff, PHILLIP ZAWACKI, to fall a distance of at least two (2) stories, thereby sustaining serious and permanent injuries to his person. The Plaintiff was, and will be, hindered and prevented from attending to his usual duties and affairs of life, and has lost, and will lose, the value of the time as aforementioned. Further, the Plaintiff suffered great pain and anguish, both in mind and body, and will in the future, continue to suffer. The Plaintiff further expended and became liable for, and will expend and become liable for large sums of money for medical care and services endeavoring to become healed and cured of said injuries.

WHEREFORE the Plaintiff, PHILLIP ZAWACKI, demands judgment against the Defendant, ING INSURANCE SERVICES, INC. f/d/b/a AETNA INSURANCE AGENCY, INC., a Corporation, in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

**COUNT III**  
**(Loss of Consortium against AETNA)**

NOW COMES the Plaintiff, MEREDITH ZAWACKI, by and through her attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, ING INSURANCE SERVICES, INC. f/d/b/a AETNA INSURANCE AGENCY, INC., a Corporation, states as follows:

1. - 6. That the Plaintiff adopts and realleges Paragraphs 1 through 7, inclusive, of COUNT I as Paragraphs 1 through 7, inclusive, of this COUNT II, as if fully restated herein.

7. That on and for a long time prior to November 17, 2007, up until the present time, the Plaintiff, MEREDITH ZAWACKI was and is now the wife of the Plaintiff, PHILLIP ZAWACKI.

8. That the Plaintiff, MEREDITH ZAWACKI, suffered and continues to suffer the loss of consortium of her husband, the Plaintiff, PHILLIP ZAWACKI, as a result of the injuries sustained by the Plaintiff, PHILLIP ZAWACKI, on November 17, 2007.

WHEREFORE the Plaintiff, MEREDITH ZAWACKI, demands judgment against the Defendant, ING INSURANCE SERVICES, INC. f/d/b/a AETNA INSURANCE AGENCY, INC., in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

Respectfully submitted,

MIROBALLI, DURKIN & RUDIN, LLC

By:   
One of the attorneys for Plaintiffs

Attorney Firm No.: 41994  
Scott H. Rudin, Esq.  
Joseph J. Miroballi, Esq.  
Lauren Levin, Esq.  
MIROBALLI, DURKIN & RUDIN, LLC  
6 West Hubbard Street, Suite 300  
Chicago, Illinois 60610  
(312) 229-5555 - Telephone  
(312) 229-5556 - Facsimile

FIRM NO.: 41994  
JM/LAL - 181-3

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

PHILLIP ZAWACKI &  
MEREDITH ZAWACKI,

Plaintiffs,

v.

Court No.:

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDING LADDER CO.,  
a Corporation; ING INSURANCE  
SERVICES, INC. f/d/b/a AETNA  
INSURANCE AGENCY, INC.,  
a Corporation,

Defendants.

AFFIDAVIT

I, Joseph J. Miroballi, being first duly sworn on oath, deposes and states that if I were called upon to testify, I would do so as follows:

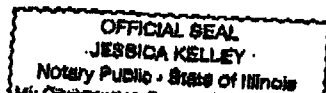
1. That I am an Attorney At Law licensed to practice in the State of Illinois.
2. That I am an attorney with the law firm of MIROBALLI DURKIN & RUDIN LLC, attorneys of record for the Plaintiffs, Phillip Zawacki and Meredith Zawacki.
3. That based upon the information available to me at the present time, the total amount of damages sought in this matter exceeds \$50,000.00.
4. That this Affidavit is submitted in compliance with Supreme Court Rule 222(b).

FURTHER AFFIANT SAYETH NAUGHT

  
JOSEPH J. MIROBALLI

SUBSCRIBED AND SWORN TO  
before me this 27th day of March, 2007.

  
Notary Public



# **EXHIBIT**

# **C**

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

HILLIP ZAWACKI & MEREDITH ZAWACKI, )

Plaintiff, )

v. )

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDERING LADDER CO.,  
a Corporation; ING INSURANCE  
SERVICES, INC., f/b/d/a AETNA  
INSURANCE AGENCY, INC.,  
a Corporation,

Defendant. )

**SHERIFF, PLEASE SERVE THE FOLLOWING:**

**STAPLETON CORPORATION**

**Robert Lensing, Registered Agent**

~~3800 Dryden Road~~

**Van Buren, Arkansas 72956**

*New address*

*517 South 28th VB*

000754

SUMMONS

To each Defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the office of the Clerk of this Court (located in the Richard J. Daley Center, Chicago, Illinois 60602) within 30 days after service of this summons, not counting the day of service.

IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than 30 days after its date.

WITNESS, \_\_\_\_\_, 2008

Clerk of Court

Date of Service: 4-14-08 1043am  
(To be inserted by officer on copy left with defendant or other person)

Attorney No.: 41994  
Name: MIROBALLI, DURKIN & RUDIN, LLC  
Atty for: Plaintiff, Karen Cobbing-Loft  
Address: 6 W. Hubbard Street, Suite 300  
City/State/Zip: Chicago, Illinois 60610  
Telephone: (312) 229-5555  
Service by Facsimile Transmission will be accepted at: \_\_\_\_\_

(Area Code) (Facsimile Telephone Number)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

REC # 007003

CK# 2577

RECEIVED  
MAR 31 2008  
PR - 7 AM 10:09  
COOK COUNTY SHERIFF  
VAN BUREN ARKANSAS

*61*  
*To Robert Lensing*  
*@ 517 S. 28th VB*  
*LINEA*  
*Phillips*  
*SEAL*

# **EXHIBIT**

# **D**

TYPE LAW

SHERIFF'S OFFICE OF COOK COUNTY, ILLINOIS

DISTRICT 010

SHERIFF'S NUMBER 034463-001P CASE NUMBER 08L003483 DEPUTY: STROM 3696-

FILED DT 03-31-2008 RECEIVED DT 03-31-2008 DIE DT 04-25-2008 MULTIPLE SERVICE 1  
 DEFENDANT  
 ING INSURANCE SERVICES, INC.  
 208 S LA SALLE ST  
 CHICAGO IL. 60604  
 SUITE 814  
 PLAINTIFF PHILLIP ZAWACKI

ATTORNEY  
 MIROBALLI, DURKIN & RUDIN, LLC  
 X  
 X XX. 00000

SERVICE INFORMATION: CF C/O CT CORP SYSTEM, R/A

\*\*\*\*\*  
 (A) I CERTIFY THAT I SERVED THIS SUMMONS ON THE DEFENDANT AS FOLLOWS:

- .....1 PERSONAL SERVICE: BY LEAVING A COPY OF THE SUMMONS AND COMPLAINT WITH THE NAMED DEFENDANT PERSONALLY.  
 .....2 SUBSTITUTE SERVICE: BY LEAVING A COPY OF THE SUMMONS AND A COPY OF THE COMPLAINT AT THE DEFENDANT'S USUAL PLACE OF ABODE WITH SOME PERSON OF THE FAMILY OR A PERSON RESIDING THERE, OF THE AGE OF 13 YEARS OR UPWARDS, AND INFORMING THAT PERSON OF THE CONTENTS THEREOF. ALSO, A COPY OF THE SUMMONS WAS MAILED ON THE DAY OF 20, IN A SEALED ENVELOPE WITH POSTAGE FULLY PREPAID, ADDRESSED TO THE DEFENDANT AT HIS OR HER USUAL PLACE OF ABODE.  
 X SAID PARTY REFUSED NAME  
 .....3 SERVICE ON: CORPORATION X COMPANY BUSINESS PARTNERSHIP BY LEAVING A COPY OF THE SUMMONS AND COMPLAINT (OR INTERROGATORIES) WITH THE REGISTERED AGENT, AUTHORIZED PERSON OR PARTNER OF THE DEFENDANT.  
 .....4 CERTIFIED MAIL

(B) THOMAS J. DART, SHERIFF, BY:

DEPUTY 3696-

1 SEX M/F RACE H AGE 34  
 2 NAME OF DEFENDANT ING INSURANCE SERVICES, INC.  
 WRIT SERVED ON

THIS 17 DAY OF APR, 2008 TIME 10:00 A.M.P.M.

ADDITIONAL REMARKS

\*\*\*\*\*  
 THE NAMED DEFENDANT WAS NOT SERVED.

TYPE OF BLDG

ATTEMPTED SERVICES

NEIGHBORS NAME

DATE TIME A.M./P.M.

ADDRESS

REASON NOT SERVED:

- 01 MOVED  
 02 NO CONTACT  
 03 EMPTY LOT  
 04 NOT LISTED  
 05 WRONG ADDRESS  
 06 NO SUCH ADDRESS  
 07 EMPLOYER REFUSAL  
 08 RETURNED BY ATTY  
 09 DECEASED  
 10 BLDG DEMOLISHED  
 11 NO REGISTERED AGT.  
 12 OTHER REASONS  
 13 OUT OF COUNTY

FEE .00 MILEAGE .00 TOTAL .00

SG84

# **EXHIBIT**

## **E**



FIRM NO.: 41994  
JJM/LAL - 181-3

FILED-3

2008 MAY -1 PM 3:02  
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

PHILLIP ZAWACKI &  
MEREDITH ZAWACKI,

Plaintiffs,

v.

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDING LADDER CO.,  
a Corporation; TRAVELERS  
INSURANCE GROUP, INC. f/d/b/a  
AETNA INSURANCE AGENCY, INC.,  
a Corporation,

Defendants.

Court No.: 08-L-3483

30 11

**FIRST AMENDED COMPLAINT AT LAW**

NOW COMES the Plaintiff, PHILLIP ZAWACKI, by and through his attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., a Corporation, states as follows:

**COUNT I**  
**(Negligence against STAPLETON CORPORATION)**

1. That up until the year 1989, and for a long time prior thereto, the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO. (hereinafter "STAPLETON"), was a corporation engaged in the business of designing, manufacturing, and selling wood folding ladders.

2. That some time during or prior to the year 1989, the Defendant, STAPLETON, designed, manufactured and placed in the stream of commerce a certain wood folding ladder that

G.M.  
A

was purchased from said Defendant by THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY, to be used by its agents, servants, and/or employees, in the City of Chicago, County of Cook, State of Illinois.

3. That during or about the year 1979, and for a period of eight (8) years thereafter, the Plaintiff, PHILLIP ZAWACKI, was employed by THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY as an insurance adjuster, and during the course of his employment, the Plaintiff was provided and came into contact with the aforementioned wood folding ladder that was designed, manufactured and sold by the Defendant, STAPLETON.

4. That at all relevant times, the Defendant, STAPLETON, owed a duty to exercise reasonable care in the design, manufacturing, inspection, testing and sale of its folding wood ladders, and in the warnings and instructions given concerning their use, so that said folding wood ladders were not unreasonably dangerous when put to use.

5. That notwithstanding its duty, at the time the Defendant, STAPLETON, designed, manufactured and sold the folding wood ladder, the Defendant was careless and negligent in one or more of the following respects:

- (a) Failed to properly design the folding wood ladder;
- (b) Failed to design the folding wood ladder in accordance with the applicable codes, regulations, and specifications governing such ladders;
- (c) Improperly designed the feet of the ladder in such a way that its user, such as the Plaintiff, is able and likely to climb on the side of the ladder that is not intended to be load-bearing, thereby creating the risk of structural collapse;
- (d) Failed to manufacture the folding wood ladder in accordance with the applicable codes, regulations, and specifications governing such ladders;

- (e) Failed to properly manufacture the folding wood ladder in such a way that would prevent a user from setting up the ladder to climb on the side of the ladder that is not intended to be load-bearing, thereby creating the risk of structural collapse;
- (f) Failed to place adequate warnings on the Stapleton wood folding ladders that users, such as the Plaintiff, can only safely climb on one side of the ladder, as only one side of the ladder was constructed and/or is intended to be load-bearing to avoid the risk of structural collapse;
- (g) Failed to make a reasonable inspection of the Stapleton wood folding ladder when the Defendant knew, or in the exercise of ordinary care should have known, that said inspection was necessary to prevent injury to its users, such as the Plaintiff;
- (h) Failed to discover the defective and/or unsafe condition of the Stapleton wood folding ladders; and/or
- (i) Failed to warn of the defective and/or unsafe condition of the Stapleton wood folding ladders.

6. That on November 17, 2007, as a direct and proximate result of one or more of the careless and negligent acts and/or omissions and unreasonably dangerous conditions of the Stapleton wood folding ladder, the Plaintiff climbed and was standing on the aforesaid Stapleton folding ladder when the ladder collapsed, causing the Plaintiff, PHILLIP ZAWACKI, to fall a distance of at least two (2) stories, thereby sustaining serious and permanent injuries to his person. The Plaintiff was, and will be, hindered and prevented from attending to his usual duties and affairs of life, and has lost, and will lose, the value of the time as aforementioned. Further, the Plaintiff suffered great pain and anguish, both in mind and body, and will in the future, continue to suffer. The Plaintiff further expended and became liable for, and will expend and become liable for large sums of money for medical care and services endeavoring to become healed and cured of said injuries.

WHEREFORE the Plaintiff, PHILLIP ZAWACKI, demands judgment against the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

**COUNT II**  
**(Loss of Consortium against STAPLETON CORPORATION)**

NOW COMES the Plaintiff, MEREDITH ZAWACKI, by and through her attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., a Corporation, states as follows:

1. - 6. That the Plaintiff adopts and realleges Paragraphs 1 through 7, inclusive, of COUNT I as Paragraphs 1 through 7, inclusive, of this COUNT II, as if fully restated herein.

7. That on and for a long time prior to November 17, 2007, up until the present time, the Plaintiff, MEREDITH ZAWACKI was and is now the wife of the Plaintiff, PHILLIP ZAWACKI.

8. That the Plaintiff, MEREDITH ZAWACKI, suffered and continues to suffer the loss of consortium of her husband, the Plaintiff, PHILLIP ZAWACKI, as a result of the injuries sustained by the Plaintiff, PHILLIP ZAWACKI, on November 17, 2007.

WHEREFORE the Plaintiff, MEREDITH ZAWACKI, demands judgment against the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

**COUNT III**  
**(Negligence against AETNA)**

NOW COMES the Plaintiff, PHILLIP ZAWACKI, by and through his attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY, a Corporation, states as follows:

1. That on November 17, 2007, and for a long time prior thereto, the Defendant, THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY (hereinafter "AETNA"), was and currently is a corporation engaged in the insurance business, in the City of Chicago, County of Cook, State of Illinois.

2. That during or about the year 1979, and for a period of eight (8) years thereafter, the Plaintiff, PHILLIP ZAWACKI, was employed by the Defendant, AETNA, as an insurance adjuster.

3. That during the aforementioned period of the Plaintiff's employment, the Defendant, AETNA, distributed to the Plaintiff a Stapleton folding wood ladder.

4. That at all relevant times, the Defendant did not condition the Plaintiff's use of the aforementioned Stapleton folding wood ladder on the Plaintiff's employment, nor was the Plaintiff instructed only to use said Stapleton folding wood ladder during the course of his employment.

5. That at all relevant times, the Defendant, AETNA, owed a duty to exercise reasonable care in the inspection, maintenance, and distribution of the aforementioned Stapleton

folding wood ladder, so that said ladder was not unreasonably dangerous when used by employees or former employees of the Defendant, AETNA, such as the Plaintiff.

6. That notwithstanding its duty, the Defendant, AETNA, by and through its agents, servants, and employees, was then and there guilty of one or more of the following negligent and careless acts and/or omissions:

- (a) Failed to make a reasonable inspection of the Stapleton wood folding ladder when the Defendant knew, or in the exercise of ordinary care should have known, that said inspection was necessary to prevent injury to its users, such as the Plaintiff;
- (b) Improperly maintained the Stapleton wood folding ladder prior to distributing said ladders to its employees, despite the Defendant's duty to keep said Stapleton wood folding ladder in a safe condition;
- (c) Failed to properly maintain, repair, and/or modify the Stapleton wood folding ladder, so that said Stapleton wood folding ladder was in compliance with the applicable codes, regulations, and specifications governing such ladders;
- (d) Improperly distributed the Stapleton wood folding ladder to its employees, despite the fact that said Stapleton wood folding ladder was not in compliance with the applicable codes, regulations, and specifications governing such ladders;
- (e) Failed to place adequate warnings on the Stapleton wood folding ladders that users, such as the Plaintiff, can only safely climb on one side of the ladder, as only one side of the ladder was constructed and/or is intended to be load-bearing to avoid the risk of structural collapse;
- (f) Failed to adequately instruct its employees on the proper use of the Stapleton wood folding ladders prior to distributing said ladders to its employees;
- (g) Failed to discover the defective and/or unsafe condition of the Stapleton wood folding ladders; and/or
- (h) Failed to warn of the defective and/or unsafe condition of the Stapleton wood folding ladders.

7. That on November 17, 2007, as a direct and proximate result of one or more of the careless and negligent acts and/or omissions and unreasonably dangerous conditions of the Stapleton wood folding ladder, which was distributed by the Defendant, AETNA, to the Plaintiff, the Plaintiff climbed and was standing on the aforesaid Stapleton folding ladder when the ladder collapsed, causing the Plaintiff, PHILLIP ZAWACKI, to fall a distance of at least two (2) stories, thereby sustaining serious and permanent injuries to his person. The Plaintiff was, and will be, hindered and prevented from attending to his usual duties and affairs of life, and has lost, and will lose, the value of the time as aforementioned. Further, the Plaintiff suffered great pain and anguish, both in mind and body, and will in the future, continue to suffer. The Plaintiff further expended and became liable for, and will expend and become liable for large sums of money for medical care and services endeavoring to become healed and cured of said injuries.

WHEREFORE the Plaintiff, PHILLIP ZAWACKI, demands judgment against the Defendant, THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY, a Corporation, in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

**COUNT III**  
**(Loss of Consortium against AETNA)**

NOW COMES the Plaintiff, MEREDITH ZAWACKI, by and through her attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY, a Corporation, states as follows:

1. - 6. That the Plaintiff adopts and realleges Paragraphs 1 through 7, inclusive, of COUNT I as Paragraphs 1 through 7, inclusive, of this COUNT II, as if fully restated herein.



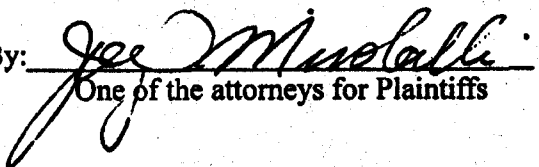
7. That on and for a long time prior to November 17, 2007, up until the present time, the Plaintiff, MEREDITH ZAWACKI was and is now the wife of the Plaintiff, PHILLIP ZAWACKI.

8. That the Plaintiff, MEREDITH ZAWACKI, suffered and continues to suffer the loss of consortium of her husband, the Plaintiff, PHILLIP ZAWACKI, as a result of the injuries sustained by the Plaintiff, PHILLIP ZAWACKI, on November 17, 2007.

WHEREFORE the Plaintiff, MEREDITH ZAWACKI, demands judgment against the Defendant, THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY, in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

Respectfully submitted,

MIROBALLI, DURKIN & RUDIN, LLC

By:   
One of the attorneys for Plaintiffs

Attorney Firm No.: 41994  
Scott H. Rudin, Esq.  
Joseph J. Miroballi, Esq.  
Lauren Levin, Esq.  
MIROBALLI, DURKIN & RUDIN, LLC  
6 West Hubbard Street, Suite 300  
Chicago, Illinois 60610  
(312) 229-5555 - Telephone  
(312) 229-5556 - Facsimile



# **EXHIBIT**

# **F**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

PHILLIP ZAWACKI &  
MEREDITH ZAWACKI,

Plaintiffs,

vs.

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDING LADDER CO.,  
a Corporation; TRAVELERS  
INSURANCE GROUP, INC. f/d/b/a  
AETNA INSURANCE AGENCY, INC.,  
a Corporation,

Defendants.

No.:

**AFFIDAVIT OF DONALD DUVALL**

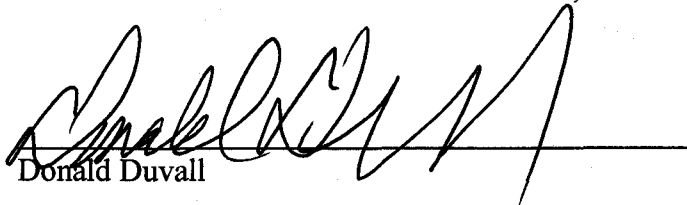
I, Donald Duvall, after being sworn and upon oath, state that if I were called to an evidentiary hearing I would competently testify on the basis of first hand knowledge to the following:

1. I am an employee of Swanson, Martin & Bell, LLP and manage the court filings and docketing of case files.

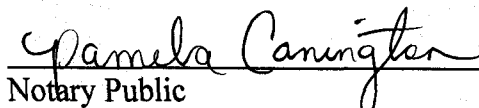
2. On May 13, 2008, I reviewed the state court file at the Daley Center and made a complete photocopy of all of its contents, which court file is attached hereto and made part of the Notice of Removal as Exhibit E.

3. I am knowledgeable about the contents of the state court file and, as of May 13, 2008, the state court file does not contain any proof of service on Travelers Insurance Group, Inc. nor does it contain an appearance filed on behalf of ING Insurance Services, Inc. or Travelers Insurance Group, Inc.

FURTHER AFFIANT SAYETH NOT

  
Donald Duvall

Subscribed and sworn to  
Before me this 13<sup>th</sup> day  
of May, 2008

  
Notary Public



FIRM NO.: 41994  
JIM/LAL - 181-3

FILED B - 7

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

PHILLIP ZAWACKI &  
MEREDITH ZAWACKI,

Plaintiffs,

v.

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDING LADDER CO.,  
a Corporation; ING INSURANCE  
SERVICES, INC. f/d/b/a AETNA  
INSURANCE AGENCY, INC.,  
a Corporation,

Defendants.

Court No.:

08L 3483



**NOTICE OF FILING**

PLEASE TAKE NOTICE, that on April 22, 2008, the undersigned filed an Rice County Sheriff's Proof of Service of Stapleton Corporation, Robert Lensing, Registered Agent, with the Clerk of the Circuit Court of Cook County, Illinois, a copy of which is attached hereto, and made a part of the record.

By:

*Joseph J. Miroballi*  
One of the attorneys for Plaintiff

Attorney Firm No.: 41994  
Albert E. Durkin, Esq.  
MIROBALLI, DURKIN & RUDIN, LLC  
6 West Hubbard Street, Suite 300  
Chicago, Illinois 60610  
(312) 229-5555 - Telephone  
(312) 229-5556 - Facsimile

CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant to ¶1-109 of the Illinois Code of Civil Procedure, the undersigned, Vicki J. Boettger, a non-attorney, certifies that a copy of the Rice County Sheriff's Proof of Service of Stapleton Corporation, Robert Lensing, Registered Agent and Notice of Filing, were mailed to the attorneys whose names appear on the foregoing notice at their respective addresses (See attached Service List), by depositing same in the U.S. mail, located at 6 West Hubbard Street, Chicago, Illinois, at or before 5:00 p.m. on this 21st day of April, 2008.

By: Vicki J. Boettger  
Vicki J. Boettger, Legal Assistant

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

HILLIP ZAWACKI & MEREDITH ZAWACKI, )  
)

Plaintiff, )  
)

v. )  
)

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDERING LADDER CO.,  
a Corporation; ING INSURANCE  
SERVICES, INC., f/b/d/a AETNA  
INSURANCE AGENCY, INC.,  
a Corporation,

Defendant. )  
)

**SHERIFF, PLEASE SERVE THE FOLLOWING:**

STAPLETON CORPORATION

Robert Lensing, Registered Agent

~~3800 Bryn Road~~

Van Buren, Arkansas 72956

*New address*

*517 South 28th VB*

000754

SUMMONS

To each Defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the office of the Clerk of the Court (located in the Richard J. Daley Center, Chicago, Illinois 60602) within 30 days after service of this summons, not counting the day of service.

IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than 30 days after its date.

WITNESS, \_\_\_\_\_, 2008

Clerk of Court

Date of Service: 4-14-08 *1043 am*

(To be inserted by officer on copy left with defendant or other person)

Attorney No.: 41994  
Name: MIROBALLI, DURKIN & RUDIN, LLC  
Atty for: Plaintiff, Karen Cobbing-Loft  
Address: 6 W. Hubbard Street, Suite 300  
City/State/Zip: Chicago, Illinois 60610  
Telephone: (312) 229-5555

Service by Facsimile Transmission will be accepted at: \_\_\_\_\_

(Area Code) (Facsimile Telephone Number)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

REC # 007003

CK# 2577

RECEIVED  
MAR 31 2008  
PR - 7 AM 10:09  
COOK COUNTY SHERIFF  
VAN BUREN ARKANSAS

*61*  
*To Robert Lensing*  
*@ 517 S. 28th VB*  
*LINEA*  
*Phillips*  
*SEAL*

(File No.: 00181-3/JJM/SHR/lpc

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

PHILLIP ZAWACKI &  
MEREDITH ZAWACKI,

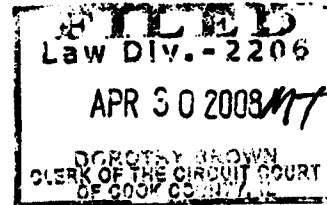
Plaintiffs,

v.

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDING LADDER CO.,  
a Corporation; ING INSURANCE  
SERVICES, INC. f/d/b/a AETNA  
INSURANCE AGENCY, INC.,  
a Corporation,

Defendants.

3303  
Court No.: 08-L-3483



**NOTICE OF ROUTINE MOTION**

TO: (no defendants have appeared and/or answered at this time)

On Wednesday 4/30, 2008 at 8:45 a.m., or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Ronald Davis, or any Judge sitting in his stead, in Room 2206 of the Richard J. Daley Center, 50 W. Washington Street, Chicago, Illinois, 60602, and shall then and there present Plaintiffs Motion to File Their First Amended Complaint at Law, Instanter.

Lauren Levin  
One of Attorneys for Plaintiff

Attorney No.: 41994  
Joseph J. Miroballi, Esq.  
Scott H. Rudin, Esq.  
Lauren Levin, Esq.  
MIROBALLI, DURKIN & RUDIN, LLC  
6 W. Hubbard Street, Suite 300  
Chicago, Illinois 60610  
(312) 229-5555 - Telephone  
(312) 229-5556 - Facsimile

File No.:00181-3/JJM/SHR/adg

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

PHILLIP ZAWACKI &  
MEREDITH ZAWACKI,

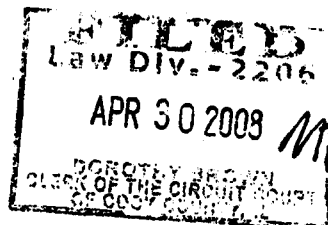
Plaintiffs,

v.

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDING LADDER CO.,  
a Corporation; ING INSURANCE  
SERVICES, INC. f/d/b/a AETNA  
INSURANCE AGENCY, INC.,  
a Corporation,

Defendants.

3390  
3004  
Court No.: 08-L-3483



**PLAINTIFFS MOTION TO FILE THEIR**  
**FIRST AMENDED COMPLAINT AT LAW, INSTANTER**

NOW COMES the Plaintiffs, PHILLIP ZAWACKI and MEREDITH ZAWACKI, by and through their attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and moves this Honorable Court to File Plaintiff's First Amended Complaint At Law, in order to name TRAVELERS INSURANCE GROUP as a Defendant, *instanter*.

In support thereof, the movant states as follows:

1. The instant motion relates to Plaintiff's claim against the above-captioned Defendants for injuries suffered by the Plaintiff, Phillip Zawacki, on November 17, 2007, when he was caused to fall from a ladder a distance of at least two stories, and thereby sustaining severe injuries.
2. The instant motion also relates to Plaintiffs claim against the above-captioned Defendants for loss of consortium suffered by the Plaintiff, Meredith Zawacki, as a result of the injuries suffered by Plaintiff Phillip Zawacki on November 17, 2007, when he was caused to fall from a ladder a distance of at least two stories, and thereby sustaining severe injuries.
3. That the statute of limitations in this matter does not run until November 17, 2009.

4. That Plaintiffs original complaint contained a misnomer, naming ING INSURANCE SERVICES as the successor in interest for AETNA INSURANCE AGENCY, INC. The actual successor in interest was TRAVELERS INSURANCE GROUP.

WHEREFORE, the Plaintiffs, PHILLIP ZAWACKI and MEREDITH ZAWACKI, respectfully request this Honorable Court for an Order for leave to file a First Amended Complaint naming TRAVELERS INSURANCE GROUP as a Defendant in this cause of action, *instantly*.

Respectfully submitted,

MIROBALLI, DURKIN & RUDIN, LLC

By: Lawrence Rudin  
One of the attorneys for Plaintiff

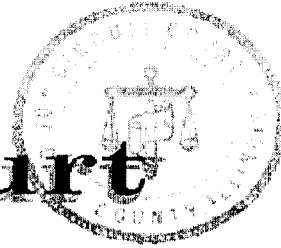
Attorney Firm No.: 41994  
Joseph J. Miroballi, Esq.  
Scott H. Rudin, Esq.  
MIROBALLI, DURKIN & RUDIN, LLC  
6 West Hubbard Street, Suite 300  
Chicago, Illinois 60610  
(312) 229-5555 - Telephone  
(312) 229-5556 - Facsimile



*Dorothy Brown*

# **Clerk of the Circuit Court**

**Cook County**



Case Information Summary for Case Number  
2008-L-003483

Filing Date: 3/31/2008

Division: Law Division

Ad Damnum: \$50000.00

Case Type: OTHER PERSONAL INJURY

District: First Municipal

Calendar: C

## **Party Information**

### **Plaintiff(s)**

ZAWACKI PHILLIP

### **Attorney(s)**

MIROBALLI DURKIN  
RUDIN

6 WEST HUBBARD#300

CHICAGO IL, 60610

(312) 229-5555

ZAWACKI MEREDITH

### **Date of Service**

### **Defendant(s)**

### **Attorney(s)**

AETNA INSURANCE AGENCY

ING INSURANCE SERVICES

STAPLETON CORPORATION

STAPLETON FOLDING LADDE

TRAVELERS INSURANCE  
GROUP

## **Case Activity**

Activity Date: 3/31/2008

Participant: ZAWACKI PHILLIP

OTHER PERSONAL INJURY COMPLAINT FILED

Court Fee: 319.00

Attorney: MIROBALLI DURKIN RUDIN

Judgment Amount: 50000.00

Activity Date: 4/10/2008

Participant: ZAWACKI PHILLIP

CASE MANAGEMENT CALL NOTICE MAILED

Date: 7/22/2008

Court Time: 0930

Activity Date: 4/21/2008

Participant: ING INSURANCE SERVICES

SUMMONS SERVED - CORPORATION/COMPANY/BUSINESS

Date: 4/17/2008

Court Fee: 60.00

Activity Date: 4/22/2008

Participant: STAPLETON CORPORATION

SUMMONS SERVED - CORPORATION/COMPANY/BUSINESS

Date: 4/14/2008

Activity Date: 4/22/2008

Participant: ZAWACKI PHILLIP

CERTIFICATE OF MAILING FILED

Attorney: MIROBALLI DURKIN RUDIN

Activity Date: 4/22/2008

Participant: ZAWACKI PHILLIP

NOTICE OF FILING FILED

Attorney: MIROBALLI DURKIN RUDIN

Activity Date: 4/30/2008

Participant: ZAWACKI PHILLIP

EXHIBITS FILED

Attorney: MIROBALLI DURKIN RUDIN

Activity Date: 4/30/2008

Participant: ZAWACKI PHILLIP

NOTICE OF MOTION FILED

Date: 4/30/2008

Attorney: MIROBALLI DURKIN RUDIN

Court Time: 0845

Activity Date: 4/30/2008

Participant: ZAWACKI PHILLIP

MOTION FILED

Attorney: MIROBALLI DURKIN RUDIN

Activity Date: 4/30/2008

Participant: TRAVELERS INS GRP

ADD AN ADDITIONAL DEFENDANT - ALLOWED -

Date: 4/30/2008

Judge: DAVIS, RONALD S.

Activity Date: 4/30/2008

Participant: TRAVELERS INS GRP

SUBSTITUTE PARTY - ALLOWED -

Date: 4/30/2008

Judge: DAVIS, RONALD S.

Activity Date: 4/30/2008

Participant: ZAWACKI PHILLIP

AMEND COMPLAINT OR PETITION - ALLOWED -

Date: 4/30/2008

Judge: DAVIS, RONALD S.

Activity Date: 4/30/2008

Participant: ZAWACKI MEREDITH

AMEND COMPLAINT OR PETITION - ALLOWED -

Date: 4/30/2008

Judge: DAVIS, RONALD S.

Activity Date: 5/1/2008

Participant: ZAWACKI PHILLIP

CERTIFICATE OF MAILING FILED

Attorney: MIROBALLI DURKIN RUDIN

Activity Date: 5/1/2008

Participant: ZAWACKI MEREDITH

CERTIFICATE OF MAILING FILED

Attorney: MIROBALLI DURKIN RUDIN

Activity Date: 5/1/2008

Participant: ZAWACKI PHILLIP

AMENDED COMPLAINT FILED

Attorney: MIROBALLI DURKIN RUDIN

Activity Date: 5/1/2008

Participant: ZAWACKI PHILLIP

NOTICE OF FILING FILED

Attorney: MIROBALLI DURKIN RUDIN

Activity Date: 5/1/2008

Participant: ZAWACKI MEREDITH

NOTICE OF FILING FILED

Attorney: MIROBALLI DURKIN RUDIN

---

Please note: Neither the Circuit Court of Cook County nor the Clerk of the Circuit Court of Cook County warrants the accuracy, completeness, or the currency of this data. This data is not an official record of the Court or the Clerk and may not be represented as an official court record.

If data does not appear in a specific field, we likely do not have the responsive data in our master database.

[Return to Search Page](#)

4-25 010

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

034463

PHILLIP ZAWACKI &amp; MEREDITH ZAWACKI, )

Plaintiff, )

v. )

STAPLETON CORPORATION f/d/b/a )  
STAPLETON FOLDERING LADDER CO., )  
a Corporation; ING INSURANCE )  
SERVICES, INC., f/b/d/a AETNA )  
INSURANCE AGENCY, INC., )  
a Corporation, )

Defendant. )

**SHERIFF, PLEASE SERVE THE FOLLOWING:**CT CORPORATION SYSTEM,  
As Registered Agent of Ing Insurance Services, Inc.  
208 South LaSalle Street, Suite 814  
Chicago, IL 60604

000079-1.6.1 03/31/08 10:42

REF CASE # 08L 003483

1 LAW 50.00

1 MILEAGE 10.00

REF SHERIFF # 034463

CASE TOTAL 60.00 \*

TOTAL 60.00 TL

CHECK I 60.00

CASHIER: MARYANN

**SUMMONS****To each Defendant:**

**YOU ARE SUMMONED** and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the office of the Clerk of this Court (located in the Richard J. Daley Center, Chicago, Illinois 60602) within 30 days after service of this summons, not counting the day of service.

**IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.**

**To the officer:**

This summons must be returned by the officer or other person to whom it was given for service with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than 30 days after its date.

WITNESS, )

MAR 31 2008

Clerk of Court

Date of Service: \_\_\_\_\_, 2008

(To be inserted by officer on copy left with  
defendant or other person)Attorney No.: 41994  
Name: MIROBALLI, DURKIN & RUDIN, LLC  
Atty for: Plaintiff, Karen Cobbing-Loft  
Address: 6 W. Hubbard Street, Suite 300  
City/State/Zip: Chicago, Illinois 60610  
Telephone: (312) 229-5555  
Service by Facsimile Transmission will be accepted at: \_\_\_\_\_

(Area Code) (Facsimile Telephone Number)

**DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS**FILED-1  
2008 APR 21 AM 10:00  
CLERK OF COURT  
DOROTHY BROWN  
CLERK OF COURT

TYPE LAW

SHERIFF'S OFFICE OF COOK COUNTY, ILLINOIS

DISTRICT 010

SHERIFF'S NUMBER 034463-001P CASE NUMBER 08L003483 DEPUTY: STROM 3696-

FILED DT 03-31-2008 RECEIVED DT 03-31-2008 DIE DT 04-25-2008 MULTIPLE SERVICE 1  
 DEFENDANT  
 ING INSURANCE SERVICES, INC.  
 208 S LA SALLE ST  
 CHICAGO IL 60604  
 SUITE 814  
 PLAINTIFF PHILLIP ZAWACKI

ATTORNEY  
 MIROBALLI, DURKIN & RUDIN, LLC  
 X  
 X XX. 00000

SERVICE INFORMATION: CF C/O CT CORP SYSTEM, R/A

\*\*\*\*\*  
 (A) I CERTIFY THAT I SERVED THIS SUMMONS ON THE DEFENDANT AS FOLLOWS:

- .....1 PERSONAL SERVICE: BY LEAVING A COPY OF THE SUMMONS AND COMPLAINT WITH THE NAMED DEFENDANT PERSONALLY.  
 .....2 SUBSTITUTE SERVICE: BY LEAVING A COPY OF THE SUMMONS AND A COPY OF THE COMPLAINT AT THE DEFENDANT'S USUAL PLACE OF ABODE WITH SOME PERSON OF THE FAMILY OR A PERSON RESIDING THERE, OF THE AGE OF 13 YEARS OR UPWARDS, AND INFORMING THAT PERSON OF THE CONTENTS THEREOF. ALSO, A COPY OF THE SUMMONS WAS MAILED ON THE DAY OF 20, IN A SEALED ENVELOPE WITH POSTAGE FULLY PREPAID, ADDRESSED TO THE DEFENDANT AT HIS OR HER USUAL PLACE OF ABODE.  
 X SAID PARTY REFUSED NAME  
 .....3 SERVICE ON: CORPORATION X COMPANY BUSINESS PARTNERSHIP BY LEAVING A COPY OF THE SUMMONS AND COMPLAINT (OR INTERROGATORIES) WITH THE REGISTERED AGENT, AUTHORIZED PERSON OR PARTNER OF THE DEFENDANT.  
 .....4 CERTIFIED MAIL

(B) THOMAS J. DART, SHERIFF, BY:

*[Signature]*, DEPUTY 3696-

- 1 SEX M/F RACE H AGE 34  
 2 NAME OF DEFENDANT ING INSURANCE SERVICES, INC.  
 WRIT SERVED ON

THIS 17 DAY OF APR, 2008 TIME 10:00 A.M./P.M.

ADDITIONAL REMARKS

THE NAMED DEFENDANT WAS NOT SERVED.

TYPE OF BLDG

ATTEMPTED SERVICES

NEIGHBORS NAME

DATE TIME A.M./P.M.

ADDRESS

REASON NOT SERVED:

- 01 MOVED  
 02 NO CONTACT  
 03 EMPTY LOT  
 04 NOT LISTED  
 05 WRONG ADDRESS  
 06 NO SUCH ADDRESS  
 07 EMPLOYER REFUSAL  
 08 RETURNED BY ATTY  
 09 DECEASED  
 10 BLDG DEMOLISHED  
 11 NO REGISTERED AGT.  
 12 OTHER REASONS  
 13 OUT OF COUNTY

FEE .00 MILEAGE .00 TOTAL .00

SC84

RETURN TO DISTRICT 010

of

FIRM NO.: 41994  
JJM/LAL - 181-3

FILED-3

2008 MAY -1 PM 3:02  
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION  
CLERK OF CIRCUIT COURT  
LAW DIVISION

PHILLIP ZAWACKI &  
MEREDITH ZAWACKI,

Plaintiffs,

v.

Court No.: 08-L-3483

30 11

STAPLETON CORPORATION f/d/b/a  
STAPLETON FOLDING LADDER CO.,  
a Corporation; TRAVELERS  
INSURANCE GROUP, INC. f/d/b/a  
AETNA INSURANCE AGENCY, INC.,  
a Corporation,

Defendants.

**FIRST AMENDED COMPLAINT AT LAW**

NOW COMES the Plaintiff, PHILLIP ZAWACKI, by and through his attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., a Corporation, states as follows:

**COUNT I**  
**(Negligence against STAPLETON CORPORATION)**

1. That up until the year 1989, and for a long time prior thereto, the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO. (hereinafter "STAPLETON"), was a corporation engaged in the business of designing, manufacturing, and selling wood folding ladders.

2. That some time during or prior to the year 1989, the Defendant, STAPLETON, designed, manufactured and placed in the stream of commerce a certain wood folding ladder that

G.M.  
A



was purchased from said Defendant by THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY, to be used by its agents, servants, and/or employees, in the City of Chicago, County of Cook, State of Illinois.

3. That during or about the year 1979, and for a period of eight (8) years thereafter, the Plaintiff, PHILLIP ZAWACKI, was employed by THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY as an insurance adjuster, and during the course of his employment, the Plaintiff was provided and came into contact with the aforementioned wood folding ladder that was designed, manufactured and sold by the Defendant, STAPLETON.

4. That at all relevant times, the Defendant, STAPLETON, owed a duty to exercise reasonable care in the design, manufacturing, inspection, testing and sale of its folding wood ladders, and in the warnings and instructions given concerning their use, so that said folding wood ladders were not unreasonably dangerous when put to use.

5. That notwithstanding its duty, at the time the Defendant, STAPLETON, designed, manufactured and sold the folding wood ladder, the Defendant was careless and negligent in one or more of the following respects:

- (a) Failed to properly design the folding wood ladder;
- (b) Failed to design the folding wood ladder in accordance with the applicable codes, regulations, and specifications governing such ladders;
- (c) Improperly designed the feet of the ladder in such a way that its user, such as the Plaintiff, is able and likely to climb on the side of the ladder that is not intended to be load-bearing, thereby creating the risk of structural collapse;
- (d) Failed to manufacture the folding wood ladder in accordance with the applicable codes, regulations, and specifications governing such ladders;



- (e) Failed to properly manufacture the folding wood ladder in such a way that would prevent a user from setting up the ladder to climb on the side of the ladder that is not intended to be load-bearing, thereby creating the risk of structural collapse;
- (f) Failed to place adequate warnings on the Stapleton wood folding ladders that users, such as the Plaintiff, can only safely climb on one side of the ladder, as only one side of the ladder was constructed and/or is intended to be load-bearing to avoid the risk of structural collapse;
- (g) Failed to make a reasonable inspection of the Stapleton wood folding ladder when the Defendant knew, or in the exercise of ordinary care should have known, that said inspection was necessary to prevent injury to its users, such as the Plaintiff;
- (h) Failed to discover the defective and/or unsafe condition of the Stapleton wood folding ladders; and/or
- (i) Failed to warn of the defective and/or unsafe condition of the Stapleton wood folding ladders.

6. That on November 17, 2007, as a direct and proximate result of one or more of the careless and negligent acts and/or omissions and unreasonably dangerous conditions of the Stapleton wood folding ladder, the Plaintiff climbed and was standing on the aforesaid Stapleton folding ladder when the ladder collapsed, causing the Plaintiff, PHILLIP ZAWACKI, to fall a distance of at least two (2) stories, thereby sustaining serious and permanent injuries to his person. The Plaintiff was, and will be, hindered and prevented from attending to his usual duties and affairs of life, and has lost, and will lose, the value of the time as aforementioned. Further, the Plaintiff suffered great pain and anguish, both in mind and body, and will in the future, continue to suffer. The Plaintiff further expended and became liable for, and will expend and become liable for large sums of money for medical care and services endeavoring to become healed and cured of said injuries.

WHEREFORE the Plaintiff, PHILLIP ZAWACKI, demands judgment against the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

**COUNT II**  
**(Loss of Consortium against STAPLETON CORPORATION)**

NOW COMES the Plaintiff, MEREDITH ZAWACKI, by and through her attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., a Corporation, states as follows:

1. - 6. That the Plaintiff adopts and realleges Paragraphs 1 through 7, inclusive, of COUNT I as Paragraphs 1 through 7, inclusive, of this COUNT II, as if fully restated herein.

7. That on and for a long time prior to November 17, 2007, up until the present time, the Plaintiff, MEREDITH ZAWACKI was and is now the wife of the Plaintiff, PHILLIP ZAWACKI.

8. That the Plaintiff, MEREDITH ZAWACKI, suffered and continues to suffer the loss of consortium of her husband, the Plaintiff, PHILLIP ZAWACKI, as a result of the injuries sustained by the Plaintiff, PHILLIP ZAWACKI, on November 17, 2007.

WHEREFORE the Plaintiff, MEREDITH ZAWACKI, demands judgment against the Defendant, STAPLETON CORPORATION f/d/b/a STAPLETON FOLDING LADDER CO., in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

**COUNT III**  
**(Negligence against AETNA)**

NOW COMES the Plaintiff, PHILLIP ZAWACKI, by and through his attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY, a Corporation, states as follows:

1. That on November 17, 2007, and for a long time prior thereto, the Defendant, THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY (hereinafter "AETNA"), was and currently is a corporation engaged in the insurance business, in the City of Chicago, County of Cook, State of Illinois.

2. That during or about the year 1979, and for a period of eight (8) years thereafter, the Plaintiff, PHILLIP ZAWACKI, was employed by the Defendant, AETNA, as an insurance adjuster.

3. That during the aforementioned period of the Plaintiff's employment, the Defendant, AETNA, distributed to the Plaintiff a Stapleton folding wood ladder.

4. That at all relevant times, the Defendant did not condition the Plaintiff's use of the aforementioned Stapleton folding wood ladder on the Plaintiff's employment, nor was the Plaintiff instructed only to use said Stapleton folding wood ladder during the course of his employment.

5. That at all relevant times, the Defendant, AETNA, owed a duty to exercise reasonable care in the inspection, maintenance, and distribution of the aforementioned Stapleton

folding wood ladder, so that said ladder was not unreasonably dangerous when used by employees or former employees of the Defendant, AETNA, such as the Plaintiff.

6. That notwithstanding its duty, the Defendant, AETNA, by and through its agents, servants, and employees, was then and there guilty of one or more of the following negligent and careless acts and/or omissions:

- (a) Failed to make a reasonable inspection of the Stapleton wood folding ladder when the Defendant knew, or in the exercise of ordinary care should have known, that said inspection was necessary to prevent injury to its users, such as the Plaintiff;
- (b) Improperly maintained the Stapleton wood folding ladder prior to distributing said ladders to its employees, despite the Defendant's duty to keep said Stapleton wood folding ladder in a safe condition;
- (c) Failed to properly maintain, repair, and/or modify the Stapleton wood folding ladder, so that said Stapleton wood folding ladder was in compliance with the applicable codes, regulations, and specifications governing such ladders;
- (d) Improperly distributed the Stapleton wood folding ladder to its employees, despite the fact that said Stapleton wood folding ladder was not in compliance with the applicable codes, regulations, and specifications governing such ladders;
- (e) Failed to place adequate warnings on the Stapleton wood folding ladders that users, such as the Plaintiff, can only safely climb on one side of the ladder, as only one side of the ladder was constructed and/or is intended to be load-bearing to avoid the risk of structural collapse;
- (f) Failed to adequately instruct its employees on the proper use of the Stapleton wood folding ladders prior to distributing said ladders to its employees;
- (g) Failed to discover the defective and/or unsafe condition of the Stapleton wood folding ladders; and/or
- (h) Failed to warn of the defective and/or unsafe condition of the Stapleton wood folding ladders.

7. That on November 17, 2007, as a direct and proximate result of one or more of the careless and negligent acts and/or omissions and unreasonably dangerous conditions of the Stapleton wood folding ladder, which was distributed by the Defendant, AETNA, to the Plaintiff, the Plaintiff climbed and was standing on the aforesaid Stapleton folding ladder when the ladder collapsed, causing the Plaintiff, PHILLIP ZAWACKI, to fall a distance of at least two (2) stories, thereby sustaining serious and permanent injuries to his person. The Plaintiff was, and will be, hindered and prevented from attending to his usual duties and affairs of life, and has lost, and will lose, the value of the time as aforementioned. Further, the Plaintiff suffered great pain and anguish, both in mind and body, and will in the future, continue to suffer. The Plaintiff further expended and became liable for, and will expend and become liable for large sums of money for medical care and services endeavoring to become healed and cured of said injuries.

WHEREFORE the Plaintiff, PHILLIP ZAWACKI, demands judgment against the Defendant, THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY, a Corporation, in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

**COUNT III**  
**(Loss of Consortium against AETNA)**

NOW COMES the Plaintiff, MEREDITH ZAWACKI, by and through her attorneys, MIROBALLI, DURKIN & RUDIN, LLC, and complaining of the Defendant, THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY, a Corporation, states as follows:

1. – 6. That the Plaintiff adopts and realleges Paragraphs 1 through 7, inclusive, of COUNT I as Paragraphs 1 through 7, inclusive, of this COUNT II, as if fully restated herein.

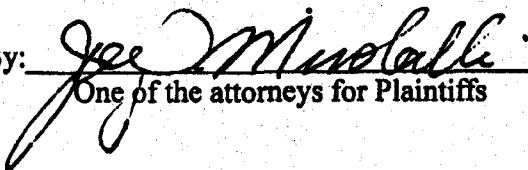
7. That on and for a long time prior to November 17, 2007, up until the present time, the Plaintiff, MEREDITH ZAWACKI was and is now the wife of the Plaintiff, PHILLIP ZAWACKI.

8. That the Plaintiff, MEREDITH ZAWACKI, suffered and continues to suffer the loss of consortium of her husband, the Plaintiff, PHILLIP ZAWACKI, as a result of the injuries sustained by the Plaintiff, PHILLIP ZAWACKI, on November 17, 2007.

WHEREFORE the Plaintiff, MEREDITH ZAWACKI, demands judgment against the Defendant, THE TRAVELERS INSURANCE GROUP, INC. f/d/b/a AETNA LIFE AND CASUALTY, in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

Respectfully submitted,

MIROBALLI, DURKIN & RUDIN, LLC

By:   
One of the attorneys for Plaintiffs

Attorney Firm No.: 41994  
Scott H. Rudin, Esq.  
Joseph J. Miroballi, Esq.  
Lauren Levin, Esq.  
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